

**Memorandum to the File
Case Closure**

Alleged Prohibited Personnel Practices, Abuse of Authority, and Misuse of Position
Office of Information & Technology, VACO
(2010-02858-IQ-0174)

The VA Office of Inspector General Administrative Investigations Division investigated allegations that [REDACTED] OI&T Office of Quality, Performance and Oversight, VACO, engaged in prohibited personnel practices, abused her authority, and misused her position by pre-selecting [REDACTED] OI&T [REDACTED] (b) (7)(C)

[REDACTED] and others for Senior Executive Service (SES) positions within OI&T. To assess these allegations, we interviewed [REDACTED] [REDACTED] and other VA employees. We also reviewed personnel records and applicable Federal laws and regulations and VA policy.

Federal law states that any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment for the purpose of improving or injuring the prospects of any particular person for employment. 5 USC § 2302(b) (6). Federal regulations require an agency appointed Executive Resources Board (ERB) conduct the merit staffing process for an initial SES appointment using fair and open competition; that all candidates compete and be rated and ranked on the same basis; and that the selection be based solely on qualifications and not on political or other non-job related factors. 5 CFR § 317.501(a) and (c).

The U.S. Office of Personnel Management (OPM) *Guide to Senior Executive Service Qualifications*, dated June 2010, states that initial career appointments to SES must be based on merit competition and that the law (5 U.S.C. 3393) requires agencies to establish an Executive Resources Board to conduct the merit staffing process. It further states that after the agency merit staffing process is completed and the appointing authority has selected the best qualified candidate for the position, the agency forwards the candidate's application to OPM for consideration by a Qualifications Review Board.

[REDACTED] allegedly engaged in prohibited personnel practices, abused her authority, and misused her position when she gave [REDACTED] and others a preference in hiring, and as evidence, an unidentified person provided OIG an organizational chart labeled "Future OI&T Organization" with [REDACTED]'s name penciled into one of the proposed SES positions. [REDACTED] told us that she did not select any employee with preference, privilege, or as a favor and that she was not involved in discussions to select [REDACTED] for an SES position. [REDACTED] told us that she applied for two SES positions in the recent past, neither of which were within OI&T, and that she was not selected for either position. [REDACTED] told us that he was laterally moved into his current position, which does not have promotional potential to that of an SES. He said that his supervisor, in the past, spoke to him about developing a position that could (b) (7)(C)

possibly provide promotional potential; however, he said that he would be required to compete for it. [REDACTED] said that nothing became of it and he did not pursue it.

[REDACTED] told us that [REDACTED] did not instruct her to fill in the organizational chart with pre-selected employees and that no one pre-selected anyone for positions reflected in the future OI&T organizational chart. A review of OI&T staffing actions between December 2007 and October 2010 disclosed that neither [REDACTED] nor [REDACTED] were appointed to an SES position, and a review of personnel files reflected that both [REDACTED] and [REDACTED] were in GS-15 positions. Although the original complaint alleged that other individuals were preselected, we were unable to evaluate other personnel actions, since no other names were provided.

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Conclusion

We did not substantiate that [REDACTED] preselected [REDACTED] or [REDACTED] for SES positions. [REDACTED] told us that she only applied for SES positions outside of the OI&T organization, and [REDACTED] said that he did not pursue a position with promotional potential. We also found that neither [REDACTED] nor [REDACTED] was appointed to an SES position. Further, we were unable to evaluate other personnel actions without names. This investigation is being closed without a formal report or memorandum.

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Prepared By: [REDACTED]

1/1/2011
Date

Approved By: [REDACTED]

1/3/2011
Date